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Provisional summary record of the 38th meeting
Held at Headquarters, New York, on Monday, 25 July 2005, at 10 a.m.

President: Mr. Nesho (Vice-President) ..... (Albania)

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05-43718 (E)

In the absence of Mr. Akram (Pakistan), Mr. Nesho (Albania), Vice-President, took the Chair.

The meeting was called to order at 10.20 a.m.

Social and human rights questions: human rights

Recommendations contained in the report of the Commission on Human Rights (E/2005/23, Part I and Corr.1, E/2005/L.34)

1. **The President** invited the Council to take action on the draft resolution and draft decisions contained in Chapter I of the report of the Commission on Human Rights (E/2005/23, Part I). The programme budget implications of the draft decisions were contained in document E/2005/L.34. Draft resolution entitled *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*.

2. **Mr. Muñoz** (Chile) said that the draft resolution was based on Commission on Human Rights resolution 2005/35, proposed by Chile, which had been adopted without opposing votes following a transparent process supported by all the regional groups. The draft resolution did not create any new obligations for Member States, but would serve both victims and States as a useful tool for designing public policy on remedies and reparations.

3. **Mr. Theummel** (Germany) said that he would abstain from voting for reasons given at the time of the vote on resolution 2005/35 in the Commission on Human Rights.

4. *At the request of the representative of the United States of America, a recorded vote was taken on the draft resolution.*

In favour:

Albania, Armenia, Azerbaijan, Bangladesh, Belgium, Belize, Brazil, Canada, China, Congo, Costa Rica, Cuba, Denmark, Ecuador, France, Guinea, Iceland, Indonesia, Ireland, Italy, Jamaica, Japan, Kenya, Lithuania, Malaysia, Mauritius, Mexico, Namibia, Nicaragua, Panama, Poland, Republic of Korea, Russian Federation, Saudi Arabia, Senegal, South Africa, Spain, Thailand, Tunisia, Turkey, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania.

Against:

None.

Abstaining:

Australia, Germany, India, Nigeria, United States of America.

5. *Draft resolution 1 was adopted by 43 votes to none, with 5 abstentions.*

6. **Ms. Zack** (United States of America) regretted that she had been compelled to call for a recorded vote, stressing the importance her country attached to the Basic Principles and Guidelines as a text embodying respect for the rule of law and accountability and condemning impunity. However, because her country's request for a neutral text on the International Criminal Court had not been accommodated, the United States had called for a vote on the Commission on Human Rights draft resolution 2005/35, from which it had abstained, as it had again abstained in the vote on the Council's related draft resolution. She emphasized that countries not parties to the treaty establishing the Court had no obligations in that regard, unless otherwise directed by the Security Council.

Draft decision 1: "The use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination"

7. *At the request of the representative of the United States of America, a recorded vote was taken on draft decision 1.*

In favour:

Armenia, Azerbaijan, Bangladesh, Belize, Brazil, China, Colombia, Congo, Costa Rica, Cuba, Ecuador, Guinea, India, Indonesia, Jamaica, Kenya, Malaysia, Mauritius, Mexico, Namibia, Nicaragua, Panama, Russian Federation, Senegal, South Africa, Thailand, Tunisia, United Arab Emirates, United Republic of Tanzania.

Against:

Albania, Australia, Belgium, Canada, Denmark, France, Germany, Iceland, Ireland, Italy, Japan, Lithuania, Poland, Republic of Korea, Spain, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining:

None.

8. *Draft decision 1 was adopted by 29 votes to 18.*

Draft decision 2: "The right to development"

9. *At the request of the representative of the United States of America, a recorded vote was taken on draft decision 2.*

In favour:

Albania, Armenia, Azerbaijan, Bangladesh, Belgium, Belize, Brazil, Canada, China, Colombia, Congo, Costa Rica, Cuba, Denmark, Ecuador, France, Germany, Guinea, Iceland, India, Indonesia, Ireland, Italy, Jamaica, Kenya, Lithuania, Malaysia, Mauritius, Mexico, Mozambique, Namibia, Nicaragua, Panama, Poland, Republic of Korea, Russian Federation, Saudi Arabia, Senegal, South Africa, Spain, Thailand, Tunisia, Turkey, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania.

Against:

Australia, United States of America.

Abstaining:

Japan.

10. *Draft decision 2 was adopted by 46 votes to 2, with 1 abstention.*

Draft decision 3: "Situation of human rights in Myanmar"

11. **Mr. Lynn** (Myanmar) said that his country attached particular importance to the protection and promotion of human rights in accordance with the principles enshrined in the Charter of the United Nations. It believed in a constructive, fair and objective approach in that regard, based on dialogue and respect for the principles of non-selectivity, territorial integrity, non-interference and national sovereignty. At the sixty-first session of the Commission on Human Rights, the delegation of Myanmar had rejected in its entirety the Commission's resolution 2005/10, while specifying that cooperation with the United Nations was the cornerstone of Myanmar's foreign policy. Myanmar stood by that position.

12. **Mr. Zhang** Xumin (China) said that his country understood the challenges and difficulties facing Myanmar in its efforts towards national reconstruction and reconciliation. China had always urged the international community to promote human rights through dialogue, rather than seeking to apply political pressure on countries.

13. **Mr. Cumberbach** (Cuba) said that his delegation could not join a consensus marked by double standards. The procedure followed would only aggravate confrontation between developed countries and the Third World instead of furthering cooperation between them.

14. *Draft decision 3 was adopted.*

Draft decision 4: "Situation of human rights in the Democratic People's Republic of Korea"

15. **Mr. Sin** (Democratic People's Republic of Korea) regretted that the draft decision had been taken up again by the Council, based as it was on Commission on Human Rights resolution 2005/11, which was filled with false information and reflected the hostile policy of the United States of America towards his country. The Democratic People's Republic of Korea categorically rejected that resolution and did not recognize the Special Rapporteur. Human rights were not the monopoly of one group or country. It was urgent that justice and impartiality be brought back into United Nations forums. He warned that the adoption of such texts blocked the possibility of dialogue and did nothing to promote human rights.

16. **Mr. Zhang** Xumin (China) stressed the economic problems besetting the Democratic People's Republic of Korea, which deserved the international community's help rather than its condemnation. The politicization of human rights contributed to the credibility crisis of the United Nations and did nothing to promote their healthy development.

17. **Mr. Cumberbach** (Cuba) said that, as previously, Cuba could not join a consensus that brought discredit to the Commission on Human Rights. The adoption of such texts marked by double standards could only aggravate confrontation.

18. *Draft decision 4 was adopted.*

Draft decision 5: "Situation of human rights in Belarus"

19. **Mr. Lykyantsev** (Russian Federation) said that the reform of the United Nations was currently under active discussion, including reform of the Commission on Human Rights and the special procedures of the Commission. The actions of the Special Rapporteur on

the situation of human rights in Belarus had shown how one individual could compromise the entire procedure. His delegation therefore requested a recorded vote on the draft decision.

20. **Mr. Cumberbach** (Cuba) said that his delegation would vote against the draft decision, which only served the geopolitical and ideological interests of its authors.

21. **Mr. Zhang** Xumin (China) said that his delegation would also vote against the draft decision.

22. At *the request of the representative of the Russian Federation, a recorded vote was taken on draft decision 5.*

In favour:

Albania, Australia, Belgium, Canada, Costa Rica, Denmark, France, Germany, Iceland, Ireland, Italy, Japan, Lithuania, Mexico, Panama, Poland, Republic of Korea, Saudi Arabia, Spain, Turkey, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United States of America.

Against:

Armenia, China, Cuba, India, Indonesia, Kenya, Malaysia, Namibia, Pakistan, Russian Federation, South Africa.

Abstaining:

Azerbaijan, Bangladesh, Belize, Brazil, Colombia, Congo, Ecuador, Guinea, Jamaica, Mauritius, Mozambique, Senegal, Thailand, Tunisia, United Republic of Tanzania.

23. *Draft decision 5 was adopted by 23 votes to 11, with 15 abstentions.*

Draft decision 6: Effects of economic reform policies and foreign debt on the full enjoyment of human rights

24. *At the request of the representative of the United Kingdom, speaking on behalf of the European Union, a recorded vote was taken on draft decision 6.*

In favour:

Bangladesh, Belize, Brazil, China, Colombia, Congo, Cuba, Ecuador, Guinea, India, Indonesia, Jamaica, Kenya, Malaysia, Mauritius, Mozambique, Namibia, Nicaragua, Nigeria, Pakistan, Panama, Russian Federation, Saudi Arabia, Senegal, South Africa, Thailand, Tunisia, United Arab Emirates, United Republic of Tanzania.

Against:

Albania, Australia, Belgium, Canada, Denmark, France, Germany, Iceland, Ireland, Italy, Japan, Lithuania, Poland, Republic of Korea, Spain, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining:

Armenia, Azerbaijan, Costa Rica, Mexico.

25. *Draft decision 6 was adopted by 29 votes to 18, with 4 abstentions.*

Draft decision 7: The right of everyone to the enjoyment of the highest attainable standard of physical and mental health

26. **Ms. Zack** (United States of America) said that her delegation did not welcome the report of the Special Rapporteur or the extension of his mandate, which he had exceeded. Private and public sector obligations were not the same and should not be treated so. Her delegation therefore requested a recorded vote on the draft decision.

27. *At the request of the representative of the United States of America, a recorded vote was taken on draft decision 7.*

In favour:

Albania, Armenia, Australia, Azerbaijan, Bangladesh, Belgium, Belize, Brazil, Canada, China, Colombia, Congo, Costa Rica, Cuba, Denmark, Ecuador, France, Germany, Guinea, Iceland, India, Indonesia, Ireland, Italy, Jamaica, Japan, Kenya, Lithuania, Malaysia, Mauritius, Mexico, Mozambique, Namibia, Nicaragua, Nigeria, Pakistan, Panama, Poland, Republic of Korea, Russian Federation, Saudi Arabia, Senegal, South Africa, Spain, Thailand, Tunisia, Turkey, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania.

Against:

United States of America.

Abstaining:

None.

28. *Draft decision 7 was adopted by 50 votes to 1.*

Draft decision 8: Enforced or involuntary disappearances

29. *Draft decision 8 was adopted.*

Draft decision 9: Independence and impartiality of the judiciary, jurors and assessors and the independence of lawyers

30. *Draft decision 9 was adopted.*

Draft decision 10: The right to freedom of opinion and expression

31. *Draft decision 10 was adopted.*

Draft decision 11: Torture and other cruel, inhuman or degrading treatment or punishment

32. *Draft decision 11 was adopted.*

Draft decision 12: Elimination of violence against women

33. *Draft decision 12 was adopted.*

Draft decision 13: Human rights of migrants

34. *Draft decision 13 was adopted.*

Draft decision 14: Working Group on Indigenous Populations of the Sub-Commission on the Promotion and Protection of Human Rights

35. **Ms. Zack** (United States of America) said that her delegation believed that the Working Group on Indigenous Populations had outlived its usefulness in the area of standard-setting, as the Permanent Forum on Indigenous Issues was performing those functions. It would be a better use of time to allot the two weeks of meetings to the Working Group on the draft declaration. Her delegation had requested a recorded vote on the draft decision and would vote against it.

36. *At the request of the representative of the United States of America, a recorded vote was taken on draft decision 14.*

In favour:

Armenia, Azerbaijan, Bangladesh, Belize, Brazil, Canada, China, Colombia, Congo, Costa Rica, Cuba, Ecuador, Guinea, India, Indonesia, Jamaica, Kenya, Malaysia, Mauritius, Mexico, Mozambique, Namibia, Nicaragua, Pakistan, Panama, Russian Federation, Saudi Arabia, Senegal, Thailand, Tunisia, United Arab Emirates, United Republic of Tanzania.

Against:

Albania, Australia, Belgium, France, Germany, Iceland, Ireland, Italy, Japan, Lithuania, Poland, Republic of Korea, South Africa, Spain, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining:

Denmark.

37. *Draft decision 14 was adopted by 32 votes to 17, with one abstention.*

Draft decision 15: Working Group of the Commission on Human Rights to elaborate a draft declaration in accordance with paragraph 5 of General Assembly resolution 49/214 of 23 December 1994

38. **Ms. Zack** (United States of America) said that by adopting the draft decision, the Council would be authorizing the Working Group to continue to meet, when it should have finished its work in the 10 years allotted to it by General Assembly resolution 49/214. What was needed was not an open-ended negotiating mandate but a commitment to a swift and successful outcome. Her delegation had therefore requested a recorded vote on the draft decision and would abstain.

39. *At the request of the representative of the United States of America, a recorded vote was taken on draft decision 15.*

In favour:

Albania, Armenia, Australia, Azerbaijan, Bangladesh, Belgium, Belize, Brazil, Canada, China, Colombia, Congo, Costa Rica, Cuba, Denmark, Ecuador, France, Germany, Guinea, Iceland, India, Indonesia, Ireland, Italy, Jamaica, Japan, Kenya, Lithuania, Malaysia, Mauritius, Mexico, Mozambique, Namibia, Nicaragua, Pakistan, Panama, Poland Republic of Korea, Russian Federation, Saudi Arabia, Senegal, South Africa, Spain, Thailand, Tunisia, Turkey, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania.

Against:

None.

Abstaining:

United States of America.

40. *Draft decision 15 was adopted by 49 votes to none, with 1 abstention.*

Draft decision 16: Human rights and indigenous issues

41. *Draft decision 16 was adopted.*

Draft decision 17: Human rights and international solidarity

42. *At the request of the representative of Canada, a recorded vote was taken on draft decision 17.*

In favour:

Armenia, Azerbaijan, Bangladesh, Belize, Brazil, China, Colombia, Congo, Costa Rica, Cuba, Ecuador, Guinea, India, Indonesia, Jamaica, Kenya, Malaysia, Mauritius, Mexico, Mozambique, Namibia, Nicaragua, Nigeria, Pakistan, Panama, Russian Federation, Saudi Arabia, Senegal, South Africa, Thailand, Tunisia, United Republic of Tanzania.

Against:

Albania, Australia, Belgium, Canada, Denmark, France, Germany, Iceland, Ireland, Italy, Japan, Lithuania, Poland, Republic of Korea, Spain, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining:

None.

43. *Draft decision 17 was adopted by 32 votes to 18.*

Draft decision 18: World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action

44. *Draft decision 18 was adopted.*

45. **Ms. Zack** (United States of America) said that, despite its vote against Commission on Human Rights resolution 2005/64 and its concerns regarding the Conference, her delegation had joined the consensus because draft decision 18 focused on the mandate of the Special Rapporteur.

Draft decision 19: Human rights and transnational corporations and other business enterprises

46. **Ms. Zack** (United States of America) said that her country had the strongest business regulatory environment in the world; corporations had the responsibility to obey the law and respect human rights. Furthermore, human rights obligations were incumbent on States and not on private actors. Her delegation had asked the sponsors to remove language implying otherwise from the draft decision. Those changes had not been made, and the draft decision as currently worded could hurt development. Her delegation therefore requested a recorded vote and would vote against the draft decision.

47. *At the request of the representative of the United States of America, a recorded vote was taken on draft decision 19.*

In favour:

Albania, Armenia, Azerbaijan, Bangladesh, Belgium, Belize, Brazil, Canada, China, Colombia, Congo, Costa Rica, Cuba, Denmark, Ecuador, France, Germany, Guinea, Iceland, India, Indonesia, Ireland, Italy, Jamaica, Japan, Kenya, Lithuania, Malaysia, Mauritius, Mexico, Mozambique, Namibia, Nicaragua, Pakistan, Panama, Poland, Republic of Korea, Russian Federation, Saudi Arabia, Senegal, Spain, Thailand, Tunisia, Turkey, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania.

Against:

Australia, South Africa, United States of America.

Abstaining:

None.

48. *Draft decision 19 was adopted by 47 votes to 3.*

Draft decision 20: Composition of the staff of the Office of the United Nations High Commissioner for Human Rights

49. *At the request of the representative of the United Kingdom, speaking on behalf of the European Union, a recorded vote was taken on draft decision 20.*

In favour:

Armenia, Azerbaijan, Bangladesh, Belize, Brazil, China, Colombia, Congo, Costa Rica, Cuba, Ecuador, Guinea, India, Indonesia, Jamaica, Kenya, Malaysia, Mauritius, Mexico, Mozambique, Namibia, Nicaragua, Pakistan, Panama, Russian Federation, Saudi Arabia, Senegal, South Africa, Thailand, Tunisia, United Arab Emirates, United Republic of Tanzania.

Against:

Albania, Australia, Belgium, Canada, Denmark, France, Germany, Iceland, Ireland, Italy, Japan, Lithuania, Poland, Republic of Korea, Spain, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining:

None.

50. *Draft decision 20 was adopted by 32 votes to 18.*

Draft decision 21: Advisory services and technical assistance for Burundi

51. *Draft decision 21 was adopted.*

Draft decision 22: Assistance to Sierra Leone in the field of human rights

52. *Draft decision 22 was adopted.*

Draft decision 23: Technical cooperation and advisory services in Nepal

53. *Draft decision 23 was adopted.*

Draft decision 24: Rights of persons belonging to national or ethnic, religious and linguistic minorities

54. *Draft decision 24 was adopted.*

Draft decision 25: Protection of human rights and fundamental freedoms while countering terrorism

55. Draft decision 25 was adopted.

Draft decision 26: Situation of human rights in the Sudan

56. *Draft decision 26 was adopted.*

Draft decision 27: Assistance to Somalia in the field of human rights

57. *Draft decision 27 was adopted.*

Draft decision 28: Technical cooperation and advisory services in the Democratic Republic of the Congo

58. *Draft decision 28 was adopted.*

59. **Ms. Zack** (United States of America) said that her delegation had disassociated itself from Commission on Human Rights resolution 2005/85 due to unacceptable language on the International Criminal Court. It had joined the consensus on draft decision 28 because that language had not been included.

Draft decision 29: Corruption and its impact on the full enjoyment of human rights, in particular economic, social and cultural rights

60. *Draft decision 29 was adopted.*

Draft decision 30: Study on non-discrimination as enshrined in article 2, paragraph 2, of the International Covenant on Economic, Social and Cultural Rights

61. *Draft decision 30 was adopted.*

Draft decision 31: Promotion of the realization of the right to drinking water and sanitation

62. *At the request of the representative of the United States of America, a recorded vote was taken on draft decision 31.*

In favour:

Albania, Armenia, Azerbaijan, Bangladesh, Belgium, Belize, Brazil, Canada, China, Colombia, Congo, Costa Rica, Cuba, Denmark, Ecuador, France, Germany, Guinea, Iceland, India, Indonesia, Ireland, Italy, Jamaica, Kenya, Lithuania, Malaysia, Mauritius, Mexico, Mozambique, Namibia, Nicaragua, Pakistan, Panama, Poland, Republic of Korea, Russian Federation, Saudi Arabia, Senegal, South Africa, Spain, Thailand, Tunisia, Turkey, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania.

Against:

Japan, United States of America.

Abstaining:

None.

63. *Draft decision 31 was adopted by 47 votes to 2.*

Draft decision 32: Terrorism and human rights

64. *At the request of the representative of the United States of America, a recorded vote was taken on draft decision 32.*

In favour:

Armenia, Azerbaijan, Bangladesh, Belize, Brazil, China, Colombia, Costa Rica, Cuba, Ecuador, Guinea, India, Indonesia, Jamaica, Japan, Kenya, Malaysia, Mauritius, Mexico, Mozambique,

Namibia, Nicaragua, Pakistan, Panama, Russian Federation, Saudi Arabia, Senegal, South Africa, Thailand, Tunisia, Turkey, United Arab Emirates, United Republic of Tanzania.

Against:

Australia, United States of America.

Abstaining:

Albania, Belgium, Canada, Denmark, France, Germany, Iceland, Ireland, Italy, Lithuania, Poland, Republic of Korea, Spain, United Kingdom of Great Britain and Northern Ireland.

65. *Draft decision 32 was adopted by 33 votes to 2, with 14 abstentions.*

Draft decision 33: The difficulty of establishing guilt and/or responsibility with regard to crimes of sexual violence

66. *The draft decision 33 was adopted.*

Draft decision 34: Discrimination based on work and descent

67. *Draft decision 34 was adopted.*

Draft decision 35: Final report on the study on indigenous peoples' permanent sovereignty over natural resources

68. *At the request of representative of Australia, a recorded vote was taken on draft decision 35.*

In favour:

Armenia, Azerbaijan, Bangladesh, Belize, Brazil, Canada, China, Colombia, Congo, Costa Rica, Cuba, Ecuador, Guinea, India, Indonesia, Jamaica, Kenya, Malaysia, Mauritius, Mexico, Mozambique, Namibia, Nicaragua, Pakistan, Panama, Russian Federation, Saudi Arabia, Senegal, South Africa, Thailand, Tunisia, United Arab Emirates, United Republic of Tanzania.

Against:

Australia, United States of America.

Abstaining:

Albania, Belgium, Denmark, France, Germany, Iceland, Ireland, Italy, Japan, Lithuania, Poland, Republic of Korea, Spain, Turkey, United Kingdom of Great Britain and Northern Ireland.

69. *Draft decision 35 was adopted by 33 votes to 2, with 15 abstentions.*

Draft decision 36: Human rights and human responsibilities

70. **Mr. Zhang** Xumin (China) said that it regretted the European Union's opposition to the draft decision. It should be remembered that the Subcommission on the Promotion and Protection of Human Rights had appointed Mr. Miguel Alfonso Martínez to undertake a study on human rights and responsibilities, with the approval of the Commission. Mr. Martínez was a renowned expert in the field of human rights and had clearly demonstrated his commitment to indigenous peoples. It was hoped that the European Union would therefore respect the majority view and support his efforts.

71. **Mr. Wood** (United Kingdom), speaking on behalf of the European Union, said that, while a State could impose duties or responsibilities on individuals for the purposes of social cohesion, such responsibilities should not interfere with inalienable human rights and should be consistent with relevant international law. The European Union rejected the idea that the State could determine which rights, if any, an individual might enjoy in return for the exercise of responsibilities. Of the 27 States that had responded to the Office of the High Commissioner for Human Rights, only two favoured continuing work on the declaration; furthermore, Commission on Human Rights resolution 2000/63 gave no mandate to elaborate such a draft, which would undermine the very foundations of human rights, especially the principles of universality and inalienability. The Council had both the right and the duty to examine the decisions of the Commission and, if necessary, to reject resolutions that undermined the fundamental principles of the United Nations.

72. *At the request of the representative of the United Kingdom, speaking on behalf of the European Union, a recorded vote was taken on draft decision 36.*

In favour:

Bangladesh, Belize, China, Colombia, Congo, Cuba, Ecuador, Guinea, India, Indonesia, Jamaica, Kenya, Malaysia, Mauritius, Mozambique, Namibia, Pakistan, Russian Federation, Saudi Arabia, South Africa, Thailand, Tunisia, United Arab Emirates.

Against:

Albania, Armenia, Australia, Belgium, Brazil, Canada, Costa Rica, Denmark, France, Germany,

Iceland, Ireland, Italy, Japan, Lithuania, Mexico, Nicaragua, Panama, Poland, Republic of Korea, Senegal, Spain, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining:

Azerbaijan, United Republic of Tanzania.

73. *Draft decision 36 was rejected by 25 votes to 23, with 2 abstentions.*

74. **Mr. Boonpracong** (Thailand) said that a vote in favour of draft decision 36 was based on the understanding that the declaration had been drafted so as to be consistent with the Universal Declaration of Human Rights, in particular article 29.

Draft decision 37: Enhancing and strengthening the effectiveness of the special procedures of the Commission on Human Rights

75. *Draft decision 37 was adopted.*

Draft decision 38: Dates of the sixty-second session of the Commission on Human Rights

76. *Draft decision 38 was adopted.*

Draft decision 39: Organization of work of the sixty-second session of the Commission on Human Rights

77. **Ms. Zack** (United States of America) said that her Government would vote against the draft decision, due to the programme budget implications. It hoped that the additional meetings of the Commission on Human Rights would not be required, or that the additional costs would be absorbed.

78. *At the request of the representative of the United States of America, a recorded vote was taken on draft decision 39.*

In favour:

Albania, Armenia, Azerbaijan, Bangladesh, Belgium, Belize, Brazil, Canada, China, Colombia, Congo, Costa Rica, Cuba, Denmark, Ecuador, France, Germany, Guinea, Iceland, India, Indonesia, Ireland, Italy, Jamaica, Japan, Kenya, Lithuania, Malaysia, Mauritius, Mexico, Mozambique, Namibia, Nicaragua, Pakistan, Panama, Poland, Republic of Korea, Russian Federation, Saudi Arabia, Senegal, South Africa, Spain, Thailand, Tunisia, Turkey, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania.

Against:

United States of America.

Abstaining:

None.

79. *Draft decision 39 was adopted by 48 votes to 1.*

80. **Ms. Sato** (Japan) said that her Government had voted in favour of draft decision 39 in the belief that cooperation would facilitate the smooth conduct of the next session. Japan believed that the Commission on Human Rights should first consider rationalizing its work, so that the sessions could be concluded within the scheduled period of time. Japan had serious concerns that there would be additional budgetary requirements, without adequate consideration of efficient working methods.

Draft decision 40: Proposed reform of the Secretary-General in the area of human rights

81. **The President,** recalling that draft decision E/2005/L.11/Rev.1 entitled "Proposed reform of the Secretary-General in the area of human rights" had been adopted by the Council at its resumed organizational session in June 2005, said that no further action was required on draft decision 40.

Draft decision 41: Technical cooperation in the field of human rights in Afghanistan

82. *Draft decision 41 was adopted.*

Draft decision 42: Situation of human rights in Haiti

83. *Draft decision 42 was adopted.*

Draft decision entitled "Convention on the Prevention and Punishment of the Crime of Genocide" (E/2005/23 (Part I) Corr.1)

84. *The draft decision was adopted.*

85. **The President** proposed that the Council should take note of the report of the Committee on Economic, Social and Cultural Rights on its thirty-second and thirty-third sessions (E/2005/22); the report of the Commission on Human Rights on its sixty-first session (E/2005/23, Part I); the report of the United Nations High Commissioner for Human Rights (E/2005/65);

and the report of the Permanent Forum on Indigenous Issues on its fourth session (E/2005/43).

86. **Ms. Groux** (Observer for Switzerland) drew attention to editorial errors in the text of resolution 2005/70, entitled "Human rights and transitional justice" and resolution 2005/78, entitled "Technical cooperation and advisory services in Nepal" reproduced in the report of the Commission on Human Rights (E/2005/23, Part I).

87. **Mr. Cumberbach** (Cuba) said that his Government dissociated itself from Commission on Human Rights resolution 2005/12 on alleged violations of human rights in Cuba. The resolution had been drafted by the world's primary violator of human rights and had been adopted as a result of coercion. In reality, the only place in Cuba where human rights were being systematically violated was the illegal naval base in Guantanamo Bay. The Commission on Human Rights was in crisis due to political manipulation, selectivity, blackmail and the hypocrisy of a number of developed nations. The proposed reduction in membership would only cause further deterioration and prevent cooperation in the area of human rights.

88. **Ms. Zack** (United States of America) said that it was her Government's understanding that the Council was taking note of the reports before it; in accordance with General Assembly decision 55/488, the term "takes note of" constituted neither approval nor disapproval.

89. **Ms. Garcia-Matos** (Bolivarian Republic of Venezuela) said that her Government was committed to seeking social justice for all indigenous peoples and had incorporated that commitment into the national Constitution. Nevertheless, her Government believed that the State exercised sovereignty over its natural resources, and it was therefore unable to accept paragraphs 29 and 78 of the report of the Permanent Forum on Indigenous Issues on its fourth session (E/2005/43).

90. **Ms. Moreno** (Colombia) said that the Forum had gone beyond its mandate in some of its recommendations; it expressed reservations regarding paragraphs 29, 30, 36, 38 and 138 of the report.

The meeting rose at 12.20 p.m.